Supreme Court, U.S.
FILED

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No. _____

In The

Supreme Court of the United States

Sheila Knubbe, Petitioner

v.

Detroit Board of Education & Detroit Federation of Teachers

On Petition For Writ Of Certiorari
To The Michigan Supreme Court

PETITION FOR WRIT OF CERTIORARI

My Name:
Sheila Knubbe (In Pro Per)
P.O. Box 80782
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BEST AVAILABLE COPY

QUESTIONS PRESENTED FOR REVIEW

I.

Whether the Michigan Supreme Court's denial of petitioner's appeal from an unlawful order and unpublished opinion of the Michigan Court of Appeals is in contravention of the petitioner's Constitutional rights, particularly her rights under the Fourteenth Amendment, as the respondents by and through their attorneys have committed various violations of law including intentional mischaracterization and misrepresentation of the pertinent issues of fact, evidence, truth and law, obstruction of justice, commission of fraud, perjury and forgery and perpetration of fraud on the Michigan Court of Appeals in falsely claiming that inter alia petitioner had failed to file her exceptions, while the respondents and their attorneys knew that such a claim was false and deceptive, and while the record has established that the administrative orders and decisions had not been authorized by law, and that the court proceedings had been utilized as the legitimization of fraud and corruption and other violations against petitioner, resulting in brazen assaults on her constitutional rights, causing her untold suffering and the unlawful denial of her right to her well-deserved job.

II.

Whether the Michigan Supreme Court, as the state court of last resort, constitutionally is permitted to deny the petitioner's meritorious application for leave to appeal by acting as a political club, and thereby turning a blind eye onto various violations of the law that had reached an unconscionable level of atrocities against petitioner, committed by the respondents and/or by and through their attorneys, as she had been subjected to infliction of pain and suffering on her very soul to the point that she narrowly had escaped a stroke or heart attack in the administrative proceedings and had unconscionably suffered untold mental anguish and anxiety in the appellate proceeding at the Michigan Court of Appeals, amounting to un-American violations of her civil rights and human rights, among her other fundamental rights, after a lifetime dedicated service to her community and society at large.

LIST OF PARTIES

The only parties to this proceeding in the court below are petitioner Sheila Knubbe and respondents the Detroit Board of Education and the Detroit Federation of Teachers.

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Appendix O

AMENDMENT I TO THE UNITED STATES CONSTITUTION

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MCL 38.93; MSA 15.1993, § 3 (1) and (2) of the Michigan Teachers' Tenure Act, which mandates the requirement of an Individualized Development Plan (IDP) on the part of the school district for a tenured teacher and as to when such an IDP must be developed and that the failure of a school district to comply with the said mandates is conclusive evidence that the teacher's performance has been satisfactory.

Appendix S

Synopses and some sound grounds as to why the preliminary decision and order of the Administrative Law Judge Tessema Berga at the State Tenure Commission were unlawfully and indeed fraudulently entered against petitioner.

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OPINION AND ORDERS BELOW

The order of the Michigan Supreme Court is set forth in Appendix A; the orders of the Michigan Court of Appeals are set forth in Appendices B, C, D, E, F, G and H; the decisions and/or orders entered at the Michigan Employment Relations Commission are presented in Appendices I, J, K, L, M and N. With the exception of the October 6, 1998, decision and order entered at the Michigan Employment Relations Commissions, none of the said decision or orders have been published.

STATEMENT

The order of the Michigan Supreme Court in this matter was issued on November 30, 2001. On March 20, 2002, by its granting petitioner's application for an extension of time, this Court extended the time within which to file a petition for a writ of certiorari in this cause of action to April 29, 2002.

The jurisdiction of this Court is invoked pursuant to Title 28, U.S.C. § 1257(3).

CONSTITUTIONAL PROVISIONS INVOLVED

AMENDMENT I TO THE UNITED STATES CONSTITUTION is set forth in Appendix N.

AMENDMENT IX TO THE UNITED STATES CONSTITUTION is set forth in Appendix O.

AMENDMENT XIV TO THE UNITED STATES CONSTITUTION is set forth in Appendix P.

STATEMENT OF THE CASE

Petitioner has been a white tenured mathematics teacher, who had been steadily employed by respondent the Detroit Board of Education ("the Board") for about thirty-five years. She was a dues-paying union member of her union, respondent the Detroit Federation of Teachers ("the Union"). She performed her duties as a mathematics teacher for the Board highly responsibly and professionally, and has earned high academic credentials, and an impressive teaching ability and skills, broad and solid experience with a high sense of dedication, and solemn devotion to her profession as a tenured mathematics teacher. Throughout her uninterrupted

employment with the Board, to wit, from January 28, 1963, to date of the unlawful and fraudulent termination of her employment on March 27, 1998, at age 59, petitioner had the title of mathematics teacher. Until September 21, 1995, after thirty-two years of teaching, her performance as a mathematics teacher, had never been characterized as "unsatisfactory," and in fact it had been evaluated to be anywhere from quite satisfactory to excellent, according to the Board, itself. However, because of the petitioner's age (reaching retirement), race, gender, color, height and place of her residency, being outside Detroit, racial and discriminatory policy of the Board being implemented with an iron fist in recent years, and because of petitioner's asserting her freedom of speech in speaking her mind and asking for promotional benefits, among other grounds, and for her spouse bringing a lawsuit against the Board under Whistleblowers Act and discrimination and other violations, among other reasons, the Board put her name on its nefarious "hit list," and thereby through its agents, principals, and supervisors entered into a course of conduct in order to unlawfully discharge her through various and relentless psychological harassment, retaliation, intimidation and various unlawful schemes to illegally coerce her into undesired retirement, a policy which is systematically and doggedly implemented by the racist Board against its white teachers in recent years. The Board via its agents and through its various acts of discrimination, retaliation, harassment, intimidation and undue psychological pressure, among other unlawful conduct, repeatedly subjected petitioner to malicious denigration and insults by name calling, such as "stupid," "senile," "bitch," "old bitch," "dizzy blond," "old hoe," and other derogatory remarks. The Board, through its agents provided petitioner with sham, malicious, deceptive, false and fraudulent "unsatisfactory" ratings for her teaching performance, while denied her an Individualized Development Plan ("IDP"), whose evidence under the Michigan Teachers' Tenure Act ("MTTA") and the petitioner's contract is a mandatory requirement and without which no charges of unsatisfactory could have been leveled against her,

even if such an allegation had been true, which in this case was not). On January 24, 1996, the Board wrongfully transferred petitioner from Osborn High School, where she had been teaching steadily for about fourteen years, to Redford High School in order to subject her to further capricious, deceptive, malicious and false evaluation, and psychological harassment and various acts of invidious discrimination, retaliation, conspiracy to commit fraud, and commission of fraud, among other wrongful acts, and also to expose her to assault and/or bodily injuries, as well.

Despite the fact that petitioner had been paying her dues to the Union, it, among other unlawful conduct, at the end resorted to cunning deception of petitioner, as after repeatedly assuring her that the Board's allegations of unsatisfactory charges against her were unlawful and reversible on appeal, and after it emphatically assuring her that it would defend and restore her rights against the various unlawful conduct of the Board, and after promising her that it would even pursue her case in court, and after advising her that the Board had failed to provide her with an IDP in violation of MTTA and terms of her contract, and that such a failure standing alone, would make all of the unsatisfactory charges against her null and void, even if they had been true, although they had been one hundred percent fabricated and fraudulent in this case, proved that all along it had been aiding and abetting the Board in its commission of various violations of her rights. In fact, its then president, John Elliott, as did agents of the Board, claimed that petitioner had been suffering from senility, which in itself is an outrageous allegation; moreover, one of the agents of the Union, Keith Johnson, threatened petitioner and warned her of the Union's ominous power that would be unleashed against her should she make any charges against it. On or about May 29, 2001, the Union and its agents, John Elliott and Keith Johnson by and through their attorneys, Eileen Nowikowski and her law firm, Sachs Waldman P.C., characterized petitioner's age in a pejorative term as being "senile," as they claimed that petitioner had been "possibly mentally ill."

On June 11, 1997, petitioner pursuant to MTTA, MCL

38.71 et seq; MSA 15.1971 et seq, filed an appeal with the State Tenure Commission ("STC"), challenging the Board's decision to pursue charges of unsatisfactory performance and thereby seeking her discharge. Administrative Law Judge Tessema Berga ("ALJ Berga"), a crony of the Board presided over that case; he was deeply hostile and discourteous towards petitioner and her spouse. He specifically prohibited petitioner on the record that he had no jurisdiction to hear any charges of discrimination, fraud, conspiracy, deception, harassment, and retaliation and any other similar charges against the Board, and that he would hear only the Board's charges against her. From the first day of the hearing, the hearing officer allowed the Board through its counsel, Gordon J. Anderson (P 22817), who was also Assistant Director of the Office of Labor Contract Management at the Department of Employee Relations for the Board (and his alleged wife, Gwendolyn Anderson, who has certified a fraudulent proof of service and affidavit for him had been also an employee of the Board) to repeatedly misrepresent the issues of fact, evidence, truth and law, and thereby causing unbearable undue pressure and mental anguish for the petitioner. The hearing was held in an obscure place called the Professional Development Academy; the hearing officer arbitrarily denied petitioner all of her rights, including her right to relief as to a number of meritorious motions such as those for production of documents and things, list of witnesses, the hearing officer's recusal, default judgment against the Board; moreover, he denied petitioner's right to present evidence, to call her own witnesses, to cross-examine all the Board's witnesses, who had provided perjured and suborned testimony against her, among many other violations. From day one the hearing officer conducted himself in a manner that he did not want to be confused with the issues of fact, evidence, truth, law or justice, as he already had made up his mind, and eventually after aiding and abetting the Board he permitted it to defraud petitioner, and thereby the Board based on the fraudulent ruling entered at the STC, unlawfully discharged petitioner on March 27, 1998. (See Appendix S.)

In September of 1997, petitioner filed her charges of

unfair labor practices in Michigan Employment Relations Commission ("MERC") under Public Employment Relations Act ("PERA") against both respondents the Board and the Union. Through various violations of the law on the part of the respondents by and through their attorneys eventually MERC unlawfully dismissed petitioner's charges. The Michigan Court of Appeals, due to mischaracterizations and misrepresentations of the issues of fact, evidence, truth and law and due to perpetration of fraud on that court by the Union by and through its attorneys, Eileen Nowikowski and her law firm Sachs Waldman P.C., the MERC's order of dismissal was affirmed; the Michigan Supreme Court in turn denied petitioner's application for leave to appeal. It is noteworthy that the Board failed to file any paper relative to this appeal in the Michigan Court of Appeals and in conspiracy with the Union, and its unscrupulous attorneys, allowed it as its comrade in fraud to defraud petitioner of her rights.

REASONS FOR GRANTING THE PETITION

Petitioner Sheila Knubbe avers that this Court should grant her petition for a writ of certiorari on, inter alia, the following grounds.

I.

THE MICHIGAN SUPREME COURT, AS THE STATE COURT OF LAST RESORT, BY ITS DENYING PETITIONER HER MERITORIOUS APPLICATION FOR LEAVE TO APPEAL FROM THE CONSTITUTIONALLY INFIRM ORDERS AND DECISIONS OF THE MICHIGAN COURT OF APPEALS AND THE MICHIGAN EMPLOYMENT RELATIONS COMMISSION, HAS SANCTIONED A DEPARTURE SO FAR FROM THE ACCEPTED AND USUAL COURSES OF JUDICIAL AND ADMINISTRATIVE PROCEEDINGS SET BY THIS COURT AND THE UNITED STATES COURTS OF APPEALS THAT CALLS FOR AN EXERCISE OF THIS COURT'S POWER OF SUPERVISION.

In September of 1997, petitioner filed her charges of unfair labor practices with the MERC under PERA. In response to petitioner's filing, the Union filed a motion for stay of proceedings and motion for summary disposition, deceptively and wrongfully arguing that the MERC action had been

identical to the STC action. In fact, in MERC, the Union certified to Administrative Law Judge Roy L. Roulhac ("ALJ Roulhac") that "the two cases involve common factual and legal issues." Subsequently, the MERC action was stayed until the ALJ Berga's decision at the STC, which was fraudulently made, was released and circulated on March 27, 1998.

On May 14, 1998, ALJ Roulhac wrongfully dismissed petitioner's charges filed with MERC on the ground that the issues had already been litigated at the STC.

The reviewing panel of MERC dismissed the said ALJ's recommended order and required petitioner to file an amended complaint. However, the said panel refused to take into consideration various violations of the law including fraudulent misrepresentations and mischaracterizations of the issues of fact and law made by the Union and the Board by and through their attorneys; and failed to take into consideration the hostility and prejudice of the ALJ Roulhac against the petitioner. Since the petitioner realized that she had been placed under considerable undue pressure and thereby her right was not being protected at MERC (as had been the case also at STC), and since she had been advised by her physician that she might suffer from a stroke or heart attack had she exposed herself to undue mental anxiety, and since the exhaustion of the procedure was not required, she rather than filing an amended complaint appealed the decision of MERC to the Michigan Court of Appeals.

While the action was within strict jurisdiction of the Michigan Court of Appeals, ALJ Roulhac entered his September 9, 1998, preliminary decision and order, recommending to dismiss petitioner's action, despite the fact that he did not have any jurisdiction since petitioner's charges of unfair labor practices against the Union and the Board were properly before the Michigan Court of Appeals. Eventually that court dismissed the appeal and advised the petitioner to come before it with the final order from MERC; interestingly enough petitioner had already for the second time invoked jurisdiction of the Michigan Court of Appeals.

On February 16, 2001, the Michigan Court of Appeals, in its opinion, at 2, held that the petitioner's "charges filed with

the MERC relate solely to her allegations of unfair labor practices under PERA....Therefore, we concur with conclusion of the MERC that the petitioner's charges fail to state a claim upon which relief could be granted under PERA."

The Union by and through its attorneys, Eileen Nowikowski and her law firm, Sachs Waldman, P.C., knowingly and deceptively mischaracterized and misrepresented to the Michigan Court of Appeals that *"No exceptions were filed at any time to the September 9, 1998 recommended Order on remand..."* and that *"Knubbe did not file any exceptions to the Decision and Recommended Order of the Administrative Law Judge dated September 9, 1998."* However, such claims are false and the Union and its unprofessional and deceptive attorneys know that they are false, as on October 2, 1998, petitioner made a trip to the Detroit office of MERC and in person filed her exceptions to the September 9, 1998, Decision and Recommended Order of ALJ Roulhac; the total number of pages of the exceptions including its proof of service and attachments is 5; since petitioner filed the original and four copies of the same, she filed with the MERC altogether 255 pages, which amounts to a half ream of paper; thus, it could not simply disappear in a proverbial crack on its own! In addition, petitioner had her own copy date/time stamped by the agent of the MERC; in fact, MERC has put its stamp on the cover page and page one and proof of service of her exceptions. MERC's stamp reads:

RECEIVED
98 OCT-2 PM 4:30
STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
DETROIT OFFICE

The length of the said exceptions itself is 10 pages; however, appended to it there are relevant documents which have been marked as Appendix A and Appendix B; Appendix A is comprised of Exhibits 1, 2, 3 and 4 and Appendix B is comprised of a letter made by the Appellant's physician on November 7, 1997, in which, inter alia, he has advised petitioner that the stress of litigation could jeopardize her life to the point of risking stroke or heart attack, and affidavit of Sheila Knubbe, herself, in which, inter alia, she has stated that on September 16, 1998, after making a trip to the Detroit office

of MERC to make a request for docket entries, she was advised that ALJ Roulhac on September 9, 1998, had issued his recommended order, dismissing petitioner's meritorious charges of unfair labor practice against both the Board and the Union, without serving a copy of it on petitioner on the same date, and thereby putting her under undue pressure to file her exceptions, which she with a great deal of hardship managed to file timely on October 2, 1998, with the MERC. As it is evidenced by the proof of service attached to the said exceptions, petitioner served a copy of the same on both Gordon J. Anderson (P-22817), the Board's counsel and Julie A. Petrick (P-23405), who was a member of the same law firm as that of Eileen Nowikowski, the Union's counsel. None of these documents were ever returned to petitioner.

This is a testament to the conduct of the Union and its lying attorneys that they are so bent to obstruct justice and to deny petitioner's rights under due process, among her other rights, that in their scheming up their web of deceit they even fraudulently denied the irrefutable evidence that petitioner had filed her exceptions in order to deceive the Michigan Court of Appeals into believing their misrepresentation of facts supported by their seemingly applicable precedents such as *Ackerberg* v *Grant Community Hosp*, 138 Mich App 295; 360 NW2d 549 (1984), *Robertson* v *Local Division 26, Amalgamated Transit Union*, 91 Mich App 429; 283 NW2d 766 (1979) lv app den 409 Mich 884 and *Transit Union* v *Detroit*, 150 Mich App 605; 389 NW2d 98 (1985), cunningly arguing that petitioner's appeal must be dismissed. Such a deceptive conduct is typical of what the Union and its attorneys would do, as they have been, in conspiracy with the Board and its attorney, involved in covering up for the fraudulently made IDP and as John Elliot, who was a corrupt and racist president of the Union, has claimed that the ground for petitioner's unlawful dismissal has been allegedly because she had been suffering from senility.Senator Joseph Young Jr., as petitioner's representative, after being fully advised of the various unlawful conduct of the Board and the Union, has warned petitioner that it is not easy to fight the corruption of these respondents individually, much less together and simultaneously, because

they have everything at their disposal; he further advised petitioner that he personally had given up the idea of ever being able to fight their corruption and that the Board and the Union have been getting away with corruption for years because the whole system, itself, is corrupt.

In their committing various unlawful acts against petitioner, particularly perpetration of fraud on the court, the Union and the Board have literally torpedoed petitioner's various established rights, particularly her constitutional right to procedural due process. Concerning the guarantee of the right to procedural due process, this Court in *Arnett* v *Kennedy*, 416 US 134; 94 S Ct 1638; 40 L Ed 2d 15 (1974) stated, at 164, that:

> The *applicability* of the *constitutional guarantee of procedural due process depends* in the first instance on the presence of a legitimate *"property"* or "liberty" *interest* within the meaning of the Fifth or *Fourteenth Amendment*. . . . (Emphasis supplied.)

In addition, while directly referencing *Board of Regents* v *Roth*, 408 US 564, 577; 92 S Ct 2701; 33 L Ed 2d 548 (1972) (which was decided under the Fourteenth Amendment) this Court, at 165, opined that it "provide[d] the proper framework for analysis of whether respondent's employment constituted a 'property' interest under the Fifth Amendment." The quote stating the framework is as follows:

> "To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. . . . He must, instead, have a legitimate claim of entitlement to it. It is a *purpose of the ancient institution of property to protect those claims upon which people rely in their daily lives, reliance that must not be arbitrarily undermined*. . . . (Emphasis supplied.)

In addition, the Roth Court referenced the following:

> "Property interests, of course, are created by the Constitution. Rather, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law–rules or understandings that secure certain benefits and that support claims of entitlement

to those benefits. . . . "

Moreover, this Court in *Arnett*, at 165, in continuation of its analysis of employment as a property interest opined:

> * * * the [*Roth*]Court stated that a person may have a *protected property interest in public employment if contractual or statutory provisions guarantee continued employment absent "sufficient cause" for discharge*. Id., at 576-578, 33 L Ed 2d 548.

Mr. Justice Marshall, a firm believer and advocate in procedural due process, in his dissenting opinion in *Roth*, at 589, wrote as follows:

> * * * When something is valuable as the opportunity to work is at stake, the government may not reward some citizens and not others without demonstrating that its actions are fair and equitable. And *it is procedural due process that is our fundamental guarantee of fairness, our protection against arbitrary, capricious, and unreasonable government action*. (Emphasis supplied.)

Moreover, in his making direct reference to Mr. Justice Douglas:, Mr. Marshall quoted the following verbatim:

> "It is not without significance that most of the provisions of the Bill of Rights are procedural. . . . Steadfast adherence to strict procedural safeguards is our main assurance that there will be equal justice under law."

However, in the case at bar "equal justice under law" has been treated as an alien concept; the overwhelming fraudulent and unlawful conduct of the Board and the Union, by and through their attorneys,have deracinated any possibility for even simulacrum of decency and justice in this case.

Thus, while being silently and actively supported by the Board and its attorney, the Union (the Board's comrade in fraud), by and through its attorneys, Eileen Nowikowski and her law firm, Sachs Waldman, P.C., perpetrated fraud on the court to deny petitioner her right to judicial review. It is irrefutable that the Board and the Union by and through their attorneys egregiously have violated the petitioner's civil rights and human rights and her rights under the Ninth Amendment

and the Fourteenth Amendment. Respondents' attorneys have been engaged in obstruction of justice against petitioner and have perpetrated fraud on the court, as they as officers of the court have engaged in such a conduct derailing the "judicial machinery" itself, and their conduct has been wantonly false and willfully blind to and constituted reckless disregard for the truth and was a concealment of truth while they had an affirmative duty to disclose the truth, as they dishonorably deceived the appellate courts. *Workman* v *Bell,* 245 F3d 849, 852 (CA 6, 2001).These attorneys violated Moore's treatise:

> While an attorney should represent his client with singular loyalty, that loyalty obviously does not demand that he act dishonestly or fraudulently; on the contrary his loyalty to the court, as an officer thereof, demands integrity and honest dealing with the court. And when he departs from that standard in the conduct of a case he perpetrates fraud upon a court. *Moore's Federal Practice and Procedure* ¶60.33.

See also Demjanjuk v *Petrovsky,* 10 F3d 338 (CA 6, 1993); *Hazel-Atlas Glass Co* v *Hartford Empire Co.,* 332 US 238; 64 S Ct 997; 88 L Ed 1250 (1944). These attorneys were fully advised that the decision and order entered at the MERC and STC were not authorized by law and indeed had been entered fraudulently; thereby, they caused the denial of the petitioner's substantive due process and equal protection of law, and thereby they covered up for various violations of petitioner's rights by the Union and the Board.

As the argument below establishes, the Michigan Court of Appeals failed to consider the issues of fact and law and evidence which are in support of petitioner's arguments, such as her exceptions to the ALJ's September 9, 1998, decision and recommended order, for judicial review and instead issued an erroneous per curium opinion which is quite sterilized and has expurgated all the violations that the Board and the Union and their unscrupulous and deceptive attorneys had committed against petitioner, including incriminating wrongdoings concerning doctoring the IDP, among others, and accepted the fraudulent claim of the Union as truth, and thereby that court accepted even misrepresentations of the

issues of fact and thereby law by ALJ Roulhac and the MERC panel, while they had grossly abused their discretion, among other violations. Indeed, the Michigan Court of Appeals failed to consider the issues of fact and evidence and truth and law that are supportive of the petitioner's argument for reversal of the unlawful dismissal of her meritorious charges of unfair labor practices by MERC; instead, it simply denied petitioner her right to a fair judicial review; however, this is the United States of America. To be sure the Michigan Court of Appeals treated petitioner's legitimate rights with callous disregard and turned a blind eye on various occasions of fraud and corruption and violations of her constitutional rights, PERA-protected rights, among her other rights at the hands of the MERC panel, ALJ Roulhac, the corrupt and racist respondents and their unprofessional and deceptive attorneys. It is noteworthy that for petitioner it has been an absolute nightmare to witness as to how the issues of law, at best, have been skirted around and only cunningly an appearance of implementation of it has been made. Notably, under the issue of normal decency and humanity a judge ought to abide himself by justice, which, has been so far merely an illusion for petitioner in this appeal.

In its per curium opinion, the Michigan Court of Appeals, at 2, has opined "We note that petitioner's charges contain very few allegations which fall within the purview of PERA. Although petitioner's charges do allege that the board dismissed her out of retaliation, the charges do not explain why this purported retaliation occurred." However, that court has failed to reason as to why petitioner had to make more than few assertions under PERA to invoke the said statute, while one allegation is adequate; in fact, petitioner had established a prima facie case against both the Board and the Union; the case in point, in her exceptions, which MERC intentionally failed to review, at 4-6, petitioner has asserted:

> . . . .Charging Party's employer [the Board] conspired with her union to violate her rights by retaliating against her for bringing a grievance against it, . . .for its demanding union representation, . . . her asking to be accompanied by her union representative has created vicious animus and hostility on the part of her

employer's agent such as principal of the Redford High School, ...

Indeed, in *McCall* v *City of Detroit Fire Department*, LO-1997, it was opined that to invoke PERA, all the complainant should do is to allege that the school board has committed an unfair labor practice against him. As in *McCall* in the instant case petitioner was retaliated against, among other reasons, as she filed a grievance against the Board. *In the Matter of:Kenowa Hills Public Schools; Kenowa Hills Education Association, Kent County Education Association, LO 1993.* In addition, in her exceptions, which MERC intentionally failed to review, at 3-4 & 8, petitioner alleged, among other statements, the following:

> * * * in fact, the Appellant's union, through arbitrary conduct and bad faith, breached its mandatory duty of fair representation without any regard to the interests of the Charging Party, and instead conspired with her employer to, among other things, maliciously and unlawfully deny her rights to pursue her meritorious grievance against her employer, and instead, in conspiracy with her employer, it witnessed as to how the Charging Party's employer had been engaging in fraudulently procuring the Individualized Development Plan (IDP), whose development on the part of the Charging Party's employer relative to its alleging any unsatisfactory rating against her is a mandatory requirement under the Michigan Teachers' Tenure Act and under the Charging Party's contract, itself, and thereby, concerning the IDP alone, the union is a co-conspirator in commission of crimes and or misdemeanors against the Charging Party and violations of her PERA-protected rights . . . .

Indeed, *Knoke* v *East Jackson Public School Dist.*, 201 MichApp 480; 540 NW2d 878 (1993), in support of its holding stated that to prevail on a claim of unfair representation a complainant is required to establish a breach of the union's duty of fair representation and a breach of the collective bargaining agreement. *Martin* v *East Lansing School District*, 193 Mich App 166, 181; 483 NW2d 656 (1992). In petitioner's cases the Union fraudulently and maliciously breached its duty of fair representation as her union and the Board violated the collective bargaining agreement, as her employer. *Martin*

v *Shiawassee City Board of Com'rs*, 109 Mich App 32;310 NW2d 896 (1981); *Goolsby* v *City of Detroit*, 419Mich 651;358 NW2d 856 (1984).

Nonetheless, in its rubber-stamping the dismissal of the petitioner's meritorious charges against the Board and the Union, the Michigan Court of Appeals failed to take into its judicial consideration the above-referenced assertions that petitioner had made in her exceptions; moreover, that court failed to take into its judicial review the particularity of petitioner's charges filed with the MERC and the relative records and the missing filed documents from them; for instance, on January 23, 1998, ALJ Roulhac entered an order staying all the proceedings relative to petitioner's charges against respondents, as he capriciously decided to deny petitioner's rights to proceed with her charges and to find an arbitrary ground to dismiss her charges against respondents, as he ordered: "I find that since a Teacher [sic] Tenure Commission decision that just cause existed for Charging Party's discharge is a complete defense to her charge that the Detroit Federation of Teachers violated its duty of fair representation, the cases scheduled for Thursday January 29, 1998, are adjourned without date. . . If the Commission determines that just cause did not exist for Charging Party's discharge, a hearing on the merits of her unfair labor practice charges will be scheduled." Subsequent to his improper staying of the proceedings in these matters and even denying petitioner's right to file an amendment to her original charges of unfair labor practices and breach of duty of fair representation against respondents, in his May 14, 1998, decision and recommendation, ALJ Roulhac unlawfully recommended that MERC issue an order to dismiss petitioner's charges against respondents, simply because he arbitrarily concluded that "I find that the Teacher [sic] Tenure Commission's decision that just cause existed for Charging Party's discharge is a complete defense to her charge that the Respondent Detroit Federation of Teachers violated its duty of fair representation." However, he had been fully advised that the recommended order and decision of ALJ Berga at the STC were irrelevant to the charges brought at the MERC and

also were unlawful and indeed fraudulent.

Even the MERC panel did not accept such an unlawful decision on the part of ALJ Roulhac, as in its August 10, 1998, order remanding to the ALJ, in a footnote, at 2, it stated that "Because the Union failed to provide us with a complete copy of the tenure commission's decision, it is impossible to determine whether the retaliation issue was actually litigated in the prior proceedings." To be sure petitioner was denied any opportunity to litigate any of her charges either at the MERC or at the STC. Nonetheless, the Michigan Court of Appeals, a la the MERC panel, failed to take into its judicial consideration that ALJ Roulhac in his May 14, 1998, decision and recommendation had dismissed petitioner's meritorious charges under PERA against both of the respondents without even reviewing the decision of ALJ Berga at the STC, much less reviewing the STC's entire records.

In addition, MERC not only arbitrarily failed to take into consideration the violation of the law by ALJ Roulhac, but also, at 2, claimed that "The parties have had an opportunity to review the Decision and Recommended Order on Remand for a period of at least 20 days from the date of service and no exceptions have been filed by any of the parties." However, for the above-stated grounds, such a claim is absolutely false.

Thus, the claim made by the MERC panel and the Union through its unprofessional attorneys (and even the silent consent of the Board and its unscrupulous attorney, Gordon Anderson, who has been served with a copy of petitioner's said exceptions, as well), that petitioner had failed to file her exceptions to the September 9, 1998, decision and recommended order of ALJ Roulhac, is irrefutably false, and its perpetrators like the Board and the Union and its attorneys knew that it was false and have intentionally resorted to such a falsehood in order to obstruct justice and to deny petitioner her rights under PERA, applicable Michigan court rules and the state and federal precedents, the First Amendment, the Ninth Amendment, the clause of due process and the clause of equal protection of the Fourteenth Amendment, civil rights, human rights, public policy, Canons of the Model Code of Judicial Conduct for State Administrative Law Judges and

ethical and professional and judicial responsibilities, among petitioner's other rights.

Nonetheless, despite the gravity of such outrageous and repugnant violations, the Michigan Court of Appeals treated them with deafening silence, and thereby the panel of that court itself egregiously violated petitioner's above-referenced rights. It is noteworthy that petitioner's exceptions should have been part of the records filed with MERC; simply because MERC even in its erroneous, deceptive, highly prejudicial and defective docketing entries has intentionally omitted this among other crucial entries, which in itself constitutes a violation of *MCR 8.203*, and in itself should have been a flag for the Michigan Court of Appeals, should not have amounted to that court's failure to take judicial notice of such a grave obstruction of justice and violations of petitioner's PERA-protected rights and her due process of law, and it should not have accepted the Union's fraudulent claim through its unscrupulous attorneys falsely alleging that petitioner had failed to file the said exceptions with MERC.

In addition, the Michigan Court of Appeals in its opinion, at 2, in support of its own erroneous per curium opinion, capriciously alleging that petitioner had contributed by plan or grievance to amend her charges and thereby MERC did not err as a matter of law by dismissing her charges, has cited *Phinney* v *Perlmutter*, 222 Mich App 513, 537; 546 NW2d 532 (1997). However, the issues of fact and law in *Phinney* are quite distinguishable from those in petitioner's cases; to be sure, the *Phinney Court*, at 537, concerning contribution of the aggrieved party by plan or negligence has cited both *Harville* v *State Plumbing and Heating Inc*, 218 Mich App 302, 323-324; 553 NW2d 377 (1996) and *Byrne* v *Schneider's Iron and Metal, Inc*, 190 Mich App 176, 184; 475 NW2d 854 (1991), whose issues of fact and law are quite distinguishable from those in petitioner's cases herein; in *Harville* it was decided that since plaintiff through her attorney had successfully moved to preclude evidence relating to the grievance and had agreed with the trial court's ruling that the jury be informed of the outcome of the grievance, she as the aggrieved party, herself, had contributed by plan or negligence; in *Byrne* it was

decided that since plaintiff through his attorney failed to object or ask the trial court to redirect the jury to apportion future damages when the jury came back with its verdict, the aggrieved party, himself, had contributed by plan or negligence. However, in the instant appeal the Michigan Court of Appeals failed to take into judicial consideration the grounds that petitioner sought the jurisdiction of that court rather than filing an amendment in MERC, were because not only petitioner's fundamental rights, including her human rights, under Federal Constitution, particularly her rights under the First Amendment, the Ninth Amendment and the Fourteenth Amendment had been egregiously violated by both respondents, but also due to the political corruption of both ALJ Berga and ALJ Rhoulac, and repeated violations of petitioner's rights by the corrupt and racist respondents and their unscrupulous attorneys, who like psychological terrorists had been bent on defeating her by all unlawful means including harming her financially, mentally, psychologically and thereby physically, and witnessing that MERC was not going to protect her rights, petitioner had been suffering so much from mental anguish and anxiety that her very life had been put in jeopardy; in fact, on September 4, 1997, the petitioner being ill and being put under unbearable undue pressure, after witnessing as to how the Board had been involved in subornation of perjury and obstruction of justice and as to how the said respondent by and through its counsel, Gordon Anderson, was committing fraud against her and as to how the said respondent in conspiracy and collusion with ALJ Berga was involved in covering up for the fraudulently procured set of documents concerning the IDP –whose evidence is a mandatory requirement under the MTTA and without which the Board was not permitted to bring any allegation of unsatisfactory rating, even if they were true, while in this case such an allegation is nothing but feigned and fraudulent– experienced intolerable degrees of anxiety and mental anguish and considerable pain in her chest and left arm with elevated blood pressure and thereby her illness became worsened so much so that the petitioner had to be rushed to the hospital where she was advised that she could

have suffered a heart attack or stroke and had to be hospitalized for four days to be monitored for her condition; and subsequently she had been warned by her physician not to subject herself to high mental anguish and anxiety lest she would once again jeopardize her very life; to protect her very life from jeopardy does not amount to any plan or negligence on her part, and the Michigan Court of Appeals' callous disregard for her rights and its arbitrary opinion in itself is quite disturbing and ominous, as the petitioner should not have been subjected to numerous acts of violations of her rights that had caused so much mental anguish and psychological anxiety that could have jeopardized her very life; she does not deserve to be subjected to Chinese water torture and be subjected to such inhumane treatment in and by so-called quasi-judicial systems in addition to her racist and corrupt employee and union and their charlatans of attorneys, simply because she is defending her right. The attendant circumstances in these matters had raised very serious and substantial doubts on the ability of ALJ Roulhac and the MERC panel to impartially administer justice in these matters, as they have denied petitioner an opportunity to be heard; in fact, the United States Supreme Court in *Goldberg* v *Kelly,* 397 US 254, at 267; 90 S Ct 1011 (1970) in support of its holding stated the following:

> "The fundamental requisite of due process of law is the opportunity to be heard." *Grannis* v *Ordean,* 234 US 385, 394; 34 S Ct 779, 783; 58 L Ed 1363 (1914). The hearing must be "at a meaningful time and in a meaningful manner." *Armstrong* v *Manzo,* 380 US 545, 552; 85 S Ct 1187, 1191; 14 L Ed 2d 62 (1965).

The fact that ALJ Roulhac out of his deep animus against petitioner and bias and prejudice for respondents unlawfully accepted the dilatory responses of respondents while they violated his own mandatory deadline for filing, and accepted their misrepresentations of the issues of fact and law and stayed the proceedings so that petitioner would not be able to amend her charges and so that based on the fraudulent order of ALJ Berga, to arbitrarily dismiss petitioner's meritorious charges against respondents and dismissing her charges with passion, and cunningly and deceptively failing to acknowledge petitioner's timely filing of her October 2, 1998,

exceptions to his deceptive September 9, 1998, recommended order and his gross abuse of his discretion, among other violations, were grounds for ALJ Roulhac's disqualification. *Crampton* v *Michigan Department of State,* 395 Mich 347; 235 NW2d 352 (1975).

There are many other grounds that would render the per curium opinion of the Michigan Court of Appeals erroneous and unlawful and indeed unconstitutional. That court intentionally failed to strike the Union's dilatory, deceptive and nonconforming brief, as it had filed its brief in clear violation of *MCR 7.212(D),* as the respondent intentionally had failed to follow the same format as that of petitioner's brief in support of her claim of right to appeal; thereby, the Union unlawfully had raised completely new issues on appeal. It is an established principle that respondent's brief must respond to the issues raised by petitioner in the same order that they are posited in her brief. *Association of Businesses Advocating Tariff Equity (ABATE)* v *Attorney General,* 173 Mich App 647; 434 NW2d 648 (1988). Since the Union had raised new issues, then in fact it technically had filed a cross appeal; in so doing, however, it had violated the mandate under *MCR 7.207,* as the time for filing such an appeal had expired months earlier; under *MCR 7.205,* the Union had to seek the permission of the Michigan Court of Appeals to file a cross appeal; however it failed to comply with the requirements of *MCR 7.205*, as well.

Moreover, the Union in further violation of *MCR 7.212(D)*, while disagreeing with petitioner's statements of facts, failed to indicate specifically which statements it was contesting and in which respect; it also failed to make accurate references to the record. In fact, it unlawfully created a record of its own by adding an Exhibit A to its brief, while it fully had been advised that the record of MERC showed that the said document, with the exception of a couple of pages, had not been filed with MERC, and while knowing that the said document had not been entered and thereby was not part of MERC's record. In fact, MERC, itself, made this point very clear, when it stated that for want of a complete decision at the STC, it could not determine certain

legal issues, as in its August 10, 1998, order remanding to ALJ Roulhac, in a footnote, at 2, while making a reference to the Union's dilatory and deceptive brief, the MERC panel stated:

> *Because the Union failed to provide us with a complete copy of the tenure commission's decision, it is impossible to determine whether the retaliation issue was actually litigated in the prior proceedings.* It is also unclear whether Knubbe ever made the Union aware of the alleged PERA violation by the Employer. Under such circumstances, it would be premature to make any determination regarding application of the doctrine of collateral estoppel. See *Nummer v Dep't of Treasury*, 448 Mich 534 (1995). (Emphasis supplied.)

Incredibly, the Michigan Court of Appeals, as did MERC, failed to take into consideration that ALJ Roulhac in his May 14, 1998, decision and recommendation dismissed petitioner's meritorious charges of unfair labor practice against both of the respondents without even reviewing the decision of ALJ Berga at the STC, much less reviewing the entire record in custody of the STC, and thereby the Michigan Court of Appeals, as did MERC, denied petitioner her rights under PERA and her due process of law.

In addition, in violation of petitioner's right the Michigan Court of Appeals, as did MERC, failed to take into consideration the fact that STC never entertained any allegation against the Union; and despite the fact that the said respondent's motion to stay the proceedings at MERC was arbitrarily granted by ALJ Roulhac, the Michigan Court of Appeals, as did MERC, never addressed this issue either and thereby disregarded the fact that petitioner arbitrarily had been denied her right to go forward with her meritorious charges of unfair labor practices against the respondents, as ALJ Roulhac arbitrarily decided to dismiss petitioner's charges against the respondents based on the fraudulent order that was capriciously entered by ALJ Berga and which unlawfully was adopted as that of STC, itself (see Appendix S).

Be that as it may, petitioner on December 21, 1998, filed a motion in the Michigan Court of Appeals, requesting that the STC's administrative record be supplemented to the MERC's record, to which neither of the respondents made any response; however, the Michigan Court of Appeals in its

February 24, 1999, order denied petitioner's said relief. The Union unlawfully appended as Exhibit A the entire decision of ALJ Berga to its brief, while according to MERC's record in the above-stated matters, only the first and last pages of this 25-page decision had been filed with MERC; however, the Michigan Court of Appeals failed to expunge the 23 pages of the said decision from the respondent's brief, and thereby it prejudiced petitioner's right; indeed, this is the reason that MERC has complained that *"the Union failed to provide us with a complete copy of the tenure commission's decision."* The Michigan Court of Appeals unlawfully denied petitioner's meritorious motion to attach the STC's record to her brief in support of her claim of appeal.

The Union's brief also was replete with fraudulent and deceptive misrepresentations of the issues of fact, evidence, truth and thereby law; in fact, the Union through its unprofessional attorneys repeatedly resorted to deliberate fabrication and/or distortion of the pertinent issues of fact in the above-stated matters in order to fraudulently concoct certain legal arguments while cunningly invoking even deceptively applicable precedents it its attempt to deceive the Michigan Court of Appeals into believing that it had a valid argument, while it had not, and instead it resorted to every effort to continue its unlawful practice in MERC and in the Michigan Court of Appeals, as well.

In her position as a mathematics teacher petitioner for more than three decades paid her dues as a union member to the Union, little knowing that its president, John Elliot, who is notorious for his being a racist and for his propensity towards corruption and who outrageously has claimed that petitioner was suffering from senility and who conspired with the equally corrupt and racist the Board to literally steal her purse, would hire the services of a group of attorneys, Eileen Nowikowski and her firm, Sachs Wlaldman P.C., that have no regard for decency and truth and that have proven that the only thing that distinguishes them from common thieves and crooks is that they have shingles as a license to steal.

Be that as it may, since the Union's brief was nonconforming, and since it was in reality an unlawful cross

appeal, it violated an additional right of the petitioner in that she, due to the restriction on the length of her reply brief, had been denied her right to provide her complete response to every issue that respondent deceptively and unlawfully had raised in its brief; despite such a violation, petitioner provided in her reply to some of the issues that respondent had deceptively presented to the Michigan Court of Appeals, and requested that she be permitted to file a supplemental reply brief; however, that court denied her such a request.

The Michigan Court of Appeals' rubber-stamping of the fraudulent dismissal of her meritorious charges against the Board and the Union entered by MERC, under the attendant circumstances in the above-stated matters and the documentary evidence and the legal and factual grounds constitutes gross abuse of discretion, errors of law, has been abusive, erroneous, prejudicial and inconsistent with the applicable issues of fact, law and truth and substantial justice and the petitioner's rights under the MTTA, PERA, applicable Michigan court rules and the Michigan and federal precedents, the First Amendment, the Ninth Amendment, the clause of due process and the clause of equal protection of the Fourteenth Amendment, the civil rights, the human rights, public policy, Canons of the Model Code of Judicial Conduct for State Administrative Law Judges and ethical and professional and judicial responsibilities, among petitioner's other rights, and thereby the said unlawful dismissal has caused substantial material injustice against the petitioner and must be peremptorily reversed.

II.

THE MICHIGAN SUPREME COURT, AS THE STATE COURT OF LAST RESORT, BY ITS DENYING THE PETITIONER'S MERITORIOUS APPLICATION FOR LEAVE TO APPEAL, HAS DENIED A REVIEW OF THE VIOLATIONS OF HER FUNDAMENTAL RIGHTS, INCLUDING HER CIVIL RIGHTS AND HUMAN RIGHTS, WITH CALLOUS DISREGARD FOR LAW AND JUSTICE, AND THEREBY HAS BROUGHT DISHONOR AND DISREPUTE UPON THE MICHIGAN JUDICIARY.

Respondents through their fraudulent schemes have

inflicted substantial damages on petitioner physically, psychologically and financially; they have resorted to every offensive machination to put petitioner under unbearable undue pressure to defeat her diligent efforts through unlawful and fraudulent means; the conduct of the Board, that all along had been aided and abetted by the Union, is akin to that of a psychological terrorist, -- after all, it put petitioner's name on its notorious "hit list"-- that has devastated petitioner's life through its numerous and egregious violations of her substantial rights through invidious reverse discrimination because of her age, color, race, gender and height and place of residency and through retaliation, harassment, intimidation, conspiracy to commit fraud and commission of fraud, obstruction of justice, subornation of perjury, and fraudulently procuring certain documents against petitioner, violations of her rights guaranteed under PERA, MTTA and Michigan and federal precedents and the First Amendment, the Ninth Amendment and the Fourteenth Amendment to the Constitution of the United States, her civil rights and her human rights, among other violations, intentional denial of her right to her employment records, personnel record, and using the fraudulent order of dismissal procured by another corrupt hearing officer at STC to unlawfully dismiss her meritorious charges and complaint against the unlawful conduct of the Board and the Union, which are known to be the nefarious twin corrupt and racist institutions in Detroit whose life support is sustained by the equally corrupt high officials.

These respondents and their lying counsel and the chair and two members of the MERC's reviewing panel and ALJ Roulhac have all made an absolute mockery of what has been required of them under the preamble of petitioner's contract, which in part reads: "the Board and the Union are mutually committed to the human rights and dignities of all, and to policies and programs of racial integration and desegregation as being necessary to good education, good management and good government." Instead, the Board and the Union have been mutually committed, particularly by and through their charlatans of attorneys, to defraud petitioner of

her rights and to make various brazing assaults on her dignity and to deny her promotional opportunities and privileges and to doggedly pursue a corrupt policy of discrimination and racism against her as a white teacher even to the detriment of the education of the children of their own community.

Petitioner has served with dedication her community for more than thirty-five years, and has weathered many dangerous situations while teaching at the Board; however, she never had to be rushed to the hospital because of elevated blood pressure and experiencing severe pain in her chest and left arm, and never risked stroke and/or heart attack, as she has been advised since she was rushed to the hospital on September 4, 1997, after witnessing corruption and fraud and forgery, perjury and deception and other unlawful activities on the part of the Board, its witnesses and ALJ Berga, himself. Petitioner has been warned not to appear in any proceedings where her rights would be similarly violated, which would cause her mental anguish to the point that it might create a health problem for her, as the next time petitioner might not be around to write any petition against these common crooks and violators who have been appointed through corrupt politics to fraudulently claim that everything that the deceitful respondents have done against petitioner could not be remedied.

The totality and the nature of the violations of the petitioner's rights at the unholy hands of the hearing officers at the administrative proceedings and Michigan appellate proceedings, causing her considerable anxiety and mental anguish and denying her immunities and privileges as a citizen of Michigan and subjecting her to "Scarlet Letter" punishment and compounding her suffering, particularly after she had been put through a harrowing ordeal at the STC where she under undue pressure almost suffered stroke or heart attack, would amount to psychological atrocities, turning her life into a living nightmare, and thus a severe violation of her human rights, particularly taking into consideration as to various injuries that the Board and the Union have inflicted upon petitioner in the course of the wrenching and unlawful proceedings at the STC, MERC and the appellate courts.

In addition, the Michigan Court of Appeals, under the direction of its Chief Judge Richard A. Bandstra, who has denied petitioner's various meritorious motions, outrageously and dishonorably signed a fraudulent and unlawful order essentially for her arrest to intimidate her into silence and putting her under undue pressure to abandon her appeal. Indeed, on August 26, 1999, Judge Richard A. Bandstra, along with two other judges of the Court of Appeals, Harold Hood and William C. Whitbeck entered an unconstitutional, unlawful, deceptive and dishonorable order to insult petitioner's dignity as much as possible and to terrorize her and to inflict pain and suffering upon her and to humiliate her and to put her under undue psychological pressure and to abuse his power darkly, ordering that "if Sheila Knubbe fails to appear at the above time and place, the Clerk shall issue a bench warrant for the arrest of Sheila Knubbe immediately thereafter." Judge Bandstra then dispatched an African-American to her place of residence to pound on her door with violence and to declare in public that she allegedly had failed to pay her debt to the state and that his own wife had been a teacher with the Board and that he wanted to know what kind of teacher she had been that is being sought for arrest. Judge Bandstra appointed a particular panel to review petitioner 's appeal and to unlawfully affirm the dismissal of her meritorious charges against the Board and the Union. The Michigan Court of Appeals intentionally turned a blind eye on the various acts of fraud and corruption, perjury and forgery and various violations of petitioner's rights under the Michigan and federal precedents and Constitutions, civil rights and human rights, among her other rights, occasioning at the STC and MERC and fraudulent and deceptive claims of the Union, by and through its equally fraudulent attorneys, particularly Eileen Nowikowski, that have intentionally and corruptly perpetrated fraud on the Michigan Court of Appeals. Thus, the tangled web of deceit and corruption has been woven from the Board and the Union to their unscrupulous attorneys to STC and MERC and the presiding ALJs to the political clubhouse of the Michigan appellate courts, which have all denied the petitioner's fundamental rights.

Indeed, in the first line of the Fourteenth Amendment, it has been mandated that: ".... All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States...." Although, by national constitutional command petitioner is a citizen of Michigan, however, as a citizen of this state and the union she has been denied her "privileges and immunities" of state citizenship, which is mandated by the national law of the Fourteenth Amendment, after whose era, which is still unfolding, there has been an overriding national law of "due process" and an overriding national law of "equal protection." The state has permitted corrupt administrative agents like ALJ Berga and ALJ Roulhac and a dishonorable and lying chair and its two members at MERC to unlawfully and fraudulently deny petitioner's unalienable rights that she has deservedly earned after more than thirty-five years of dedicated and professional service to society. MERC has even published its final decision and order which is fraudulent and contains a number of prejudicial and erroneous claims such as fraudulently claiming that petitioner had failed to file her exceptions. Thus, the state of Michigan has permitted fabrications to be published against petitioner and has permitted the Board and the Union, which have been characterized by Senator Young, as hopeless and corrupt institutions to wreck havoc with the lives of the victims like petitioner, while utilizing the resources of the state, as they through their unlawful actions have subverted the rule of law and thereby egregiously have violated petitioner's constitutional rights.

This nation by and through the Declaration of Independence, which presciently has stated the concept of "life, liberty and pursuit of happiness," and the rule of the constitution in the Ninth Amendment and the "citizenship" and "privileges" and "immunities" clauses of the Fourteenth Amendment, has constituted the irrefutable triumvirate commitments to human rights; to be sure, the whole judicial fabric of the constitutional laws in essence is made of the

cardinal commitment to the preservation of human rights and dignity of every American. Thereby, since the principle of human rights law, as a matter of unshakable commitment and constitutional law, is enforceable, petitioner as a citizen of Michigan and this nation, is entitled to her "human rights," such as her right to pursue and obtain her happiness, which has been solemnly guaranteed by the Ninth Amendment, and cannot be infringed upon by the State. However, Michigan so far has dealt a savage and gut-wrenching blow to petitioner 's rights to the pursuit of her happiness, which is one of the guiding principles and a "vouchsafed right" in the Declaration of Independence and which has been carried down through the Ninth Amendment and the Fourteenth Amendment, and which has been recognized as such in *Corfield* v. *Coryell*, 4 Was. CC. 371, 6F Cas.546 (C.C.E.D.pa.1823). The STC and MERC, as state agencies, have turned a blind eye upon the corrupt and fraudulent conduct of respondents (which have been characterized by Senator Young, as institutions which have been getting away with corruption for years because the whole system, itself, is corrupt) by and through their counsel (one of whom, Gordon Anderson, is on the permanent payroll of the Board while his wife is its employee as well). In addition, the Michigan appellate courts have shut their eyes to the gravity of the dishonorable conduct of the hearing officers and proceedings at the STC and MERC, despite the fact that under the state's cannons of judicial responsibilities, court rules and precedents, the judicial conduct of the hearing officer and the MERC panel should be confined within certain legal and ethical boundaries. Nonetheless, anyone after a cursory review of MERC's decisions and orders and all of its administrative record concerning these matters is able to see with half an eye that the malicious, prejudicial and hostile conduct of MERC in this case is outrageous, impermissible, sanctionable and indictable. However, the MERC unconscionably and unconstitutionally has turned a blind eye on the various egregious violations of the law in the course of judicial proceedings at the STC which include crimes and misdemeanors against petitioner by the Board and its counsel which have been executed in conspiracy and

collusion with the hearing officer, himself, while being aided and abetted by the Union, by and through their attorneys, particularly Eileen Nowikowski. Surely, the various violations of the law occasioned in the course of proceedings at STC, MERC and the Michigan appellate courts have undermined the integrity of the judicial system and have been inhumane, unjust and injurious to the petitioner and have undeniably caused her considerable mental anguish, pain and suffering.

To be sure, MERC's order dismissing petitioner's charges and complaint against respondents has been in violation of petitioner's rights as a tenured mathematics teacher under the PERA-protected rights, petitioner's contract, various applicable federal and Michigan precedents, Civil Rights Act, public policy, the First Amendment, the Ninth Amendment and the Fourteenth Amendment to the Constitution of the United States, Michigan Constitution, federal and Michigan statutes and precedents, Canons 1, 2 and 3 of A Model Code of Judicial Conduct for State Administrative Law Judges and ethical and professional responsibilities, among petitioner's other rights, relative to various acts of invidious reverse discrimination, harassment, retaliation, intimidation, conspiracy to commit fraud and commission of fraud, among others, committed systematically and deliberately by respondents not only to steal petitioner 's purse, but also to besmear her good name and reputation, which she has earned as the result of years of highly dedicated, professional and competent services to her community which have made her a highly valuable asset as a mathematics teacher, who has made a difference in the lives of countless numbers of her students.

The panel of the Michigan Court of Appeals, accepted all the fraudulent mischaracterizations and misrepresentations of the issues of fact, evidence, truth and law by the Union, by and through its unscrupulous attorneys, Eileen Nowikowski and her law firm, Sachs, Waldman, O'Hare, Helveston, Bogas and McIntosh, P.C., which have exercised a Mafioso grip on the judiciary in this case, and thereby that court rubber-stamped the fraudulent order of MERC's dismissal against petitioner's meritorious charges against both the Board and

the Union, and thereby its conduct must be subject to judicial investigation. It is consequently the solemn constitutional duty of this Court to restore to petitioner her human rights and her other constitutional rights, which have been so brutally and callously and unconscionably and brazenly assaulted by the said state agencies, and its such dishonorable agent as the hearing officer, who because of his deep-rooted prejudice against petitioner could not have presided over these proceedings to begin with.

It is irrefutable that the petitioner's civil rights and human rights and constitutional rights have been directly hindered and violated at the administrative proceedings both at the STC and the MERC, that have proven themselves to be corruptible and sordid political state agencies put in place by the unscrupulous high officials to do their adulterated bidding while cunningly and fraudulently being disguised with some legal cosmetics to maintain a sham front of legitimacy to their various violations and repugnant conduct. In fact, a number of high authorities, such as Arthur Ellis, among others from the Michigan education department and elsewhere, have pretended that they heard nothing and that they saw nothing when they had been advised by petitioner as to substantial violations of her rights at the STC and MERC by the hearing officers and the Board and the Union and their unscrupulous counsel, among others.

Certainly, it has been the solemn constitutional duty of the Michigan appellate courts to restore to petitioner her civil rights, human rights and her other constitutional rights, which have been so brutally and callously and brazenly and unconscionably assaulted. To be sure, the petitioner's rights under Universal Declaration of Human Rights as well wantonly, recklessly and dishonorably have been violated by the various agents of the state of Michigan, including its judiciary, set forth specifically under, inter alia, Articles 1,2,5,6,7,8,10,17(2),18,19 and 23(1)&(2). Therefore, Michigan through its appellate courts and the state agencies, the Board and the Union by and through their attorneys have made a mockery of the principle of Declaration of Independence, the rule of the construction of the Ninth Amendment and the

"privileges and immunities" clause, and the "equal protection" and "due process" clauses of the Fourteenth Amendment, and thereby has subjected petitioner to various and ruthless psychological atrocities and abuses, and untold pain and suffering.

CONCLUSION

For all the reasons set forth above, petitioner Sheila Knubbe herein respectfully prays that a writ of certiorari issue to review the order of the Supreme Court of the State of Michigan, denying her meritorious application for leave to appeal, and thereby letting stand the capricious, deceptive, unlawful, fraudulent and unconstitutional order and decision entered at the MERC, as the Michigan Court of Appeals unlawfully affirmed MERC's dismissal of her meritorious charges of unfair labor practices against respondents the Board and the Union.

Further, petitioner respectfully makes a request for an order: (a) requiring an investigation into the various and serious violations of the law, occasioned at the MERC and the Michigan Court of Appeals, by the Board and the Union, their attorneys, and the chief judge of the Michigan Appellate Court, and as to why the Michigan appellate courts so irresponsibly and dishonorably treated such violations with mind-numbing indifference and indeed with outrageously callous disregard for petitioner's rights, and thereby have failed to preserve the very integrity, honor and independence of the judiciary, (b) requiring an investigation into the conduct of the respondents' attorneys for their above-referenced violations of the law in order to indict them for their commission of, inter alia, fraud and corruption, and (c) for any other relief that this Court deems just and proper.

Respectfully submitted,

Sheila Knubbe (In Propria Persona)
P.O. Box 80782
St. Clair Shores, Michigan 48080
(313) 882-5241

Dated: April 27, 2002.

Appendix A
Michigan Supreme Court

Order

Lansing, Michigan

Entered: November 30, 2001

Maura D. Corrigan,
Chief Justice
Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman,
Justices

119444

SHEILA KNUBBE,
Plaintiff-Appellant,

v

SC:119444
COA:215333
MERC: 97-000204;
97-000034

DETROIT BOARD OF EDUCATION,
and
STATE TENURE COMMISSION,
Intervenor-Appellee.

On order of the Court, the delayed application for leave to appeal from the February 16, 2001, decision of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court. November 30, 2001

(Signed) Corbin R Davis
Clerk

pah:1127

Seal of the Michigan Supreme Court. Lansing.
Discite Justitiam Moniti

Appendix B

Court of Appeals, State of Michigan

ORDER

In the Matter of	Janet T. Neff
Detroit Board of Education	**Presiding Judge**
Docket # 215333	Donald E. Holbrook, Jr.
L.C.# 97-000204; 97-000034	Kathleen Jansen
	Judges

The Court orders that the motion for rehearing is DENIED.

(Signed) Janet T. Neff

SEAL OF THE STATE OF MICHIGAN COURT OF APPEALS

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

April 17, 2001 (Signed) Sandra Schultz Mengel
Date Chief Clerk

Appendix C

SEAL OF THE STATE OF MICHIGAN COURT OF APPEALS

Court of Appeals

Lansing

TO ATTORNEYS OF RECORD:

Enclosed with this letter is the decision and opinion in the entitled matter.

Under MCR 7.215 (A), "per curiam" or "memorandum" opinions are not published unless the majority of the judges of the panel deciding the case directs the reporter to do so. In those cases, the words "For Publication" appear on the face of the opinion. Opinions not designated for publication at the time of release are printed on pink paper and the word "Unpublished" appears on the face.

Under MCR 7.215 (D), this opinion is the judgment of the Court of Appeals. All time periods for further action under the rules will run from the date printed on the opinion. See MCR 7.215 (E),(G).

I hereby certify that the annexed is a true and correct copy of the opinion filed in the record of the Court of Appeals in the entitled matter and that the date thereon is the actual date of filing.

Sincerely,
Sandra Schultz Mengel
Chief Clerk

SSM/las
Encl.
cc: Trial Judge or Agency

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of the DETROIT BOARD OF EDUCATION.

SHEILA KNUBBE,

Petitioner-Appellant,

DETROIT BOARD OF EDUCATION and DETROIT FEDERATION OF TEACHERS,

Respondents-Appellees.

UNPUBLISHED
February 16, 2001

No. 215333
MERC
LC No. 97-000204

Before: Neff, P. J., and Holbrook, Jr., and Jansen, JJ.

PER CURIAM.

Petitioner appeals as of right from an October 6, 1998, decision and order of the Michigan Employment Relations Commission (MERC) dismissing her charges of unfair labor practices against respondents Detroit Board of Education (board) and Detroit Federation of Teachers (union). We affirm.

Petition, a tenured teacher, filed charges with the MERC alleging that respondents violated her rights under the Public Employment Relations Act (PERA), MCL 423.201 *et seq.*; MSA 17.455 (1) *et seq.*, by engaging in unfair labor practices. Petitioner specifically contended that the board improperly terminated her employment as a tenured teacher, and that the union breached its duty of fair representation by refusing to pursue a grievance against the board on her behalf. A MERC panel dismissed her charges, however, concluding that petitioner failed to state a claim upon which relief could be granted under the PERA.

Pursuant to MCL 423.216 (e); MSA 17.455 (16) (e), the factual findings of the MERC are conclusive if supported by competent, material, and substantial evidence on the whole record. Legal rulings of an agency, however, will be set aside if they are in violation of the constitution, a statute, or are affected by a substantial and material error of law. *Amalgamated Transit Union, Local 1564, AFL-CIO v Southeastern Michigan Transportation Authority*, 437 Mich 441, 450; 473 NW2d 249 (1991).

MCL 423.209; MSA 17.455 (9) provides that it is lawful for public employees to "organize together or to form, join or assist in labor organizations, to engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection, or to negotiate or bargain collectively with their public employers through representatives of their own free choice." MCL 423.210 (1); MSA 17.455 (10) (1) further provides in pertinent part:

> It shall be unlawful for a public employer or an officer or agent of a public employer (a) to interfere with, restrain or coerce public employees in the exercise of their rights guaranteed in section 9; (b) to initiate, create, dominate, contribute to, or interfere with the formation or administration of any labor organization . . . ; (c) to discriminate in regard to hire, terms or other conditions of employment in order to encourage or discourage membership in a labor organization . . . ; (d) to discriminate against a public employee because he has given testimony or instituted proceedings under this act . . . .

Similarly, § 10 (3) of the PERA provides that a labor organization shall not restrain or coerce public employees in the exercise of their rights guaranteed under § 9.

Although petitioner alleges broad misconduct on the part of both respondents, her charges filed with the MERC relate solely to her allegations of unfair labor practices under the PERA. We note that petitioner's charges contain very few allegations which fall within the purview of the PERA. Although petitioner's charges do allege that the board dismissed her out of retaliation, the charges do not explain why this purported retaliation occurred. In other words,

petitioner's factual allegations fail to establish a nexus between her exercise of her rights protected under the PERA and the unfair labor practices. Therefore, we concur with conclusion of the MERC that petitioner's charges fail to state a claim upon which relief could be granted under the PERA.

Petitioner's later filings contained conclusory allegations suggesting that the retaliation was based upon her exercise of her rights protected under the PERA, and, in fact, the MERC provided her an opportunity to amend her charges to incorporate and further explain these allegations. However, petitioner failed to amend her charges, and they were dismissed. We have previously ruled that reversal will not be granted for an "error to which the aggrieved party contributed by plan or negligence." *Phinney v Perlmutter,* 222 Mich App 513, 537; 564 NW2d 532 (1997). Accordingly, the MERC did not err as a matter of law by dismissing petitioner's charges.

Lastly, petitioner raises several other arguments regarding the conduct of the hearing referee, the MERC panel, the MERC clerk, attorneys, and parties. None of these argument [sic] were raised or considered below, petitioner has failed to cite to the record to factually support her allegations, and petitioner has failed to cite any authorities to support her position. Consequently, we consider these arguments to be waived for appellate review. *Mudge v Macomb Co,* 458 Mich 87, 104-105; 580 NW2d 845 (1998); *Grand Rapids Employees Independent Union v Grand Rapids,* 235 Mich App 398, 409; 597 NW2d 284 (1999).

Affirmed.

/s/ Janet T. Neff
/s/ Donald E. Holbrook, Jr.
/s/ Kathleen Jansen

Appendix D

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: In the Matter of Detroit Board of Educ
Docket # 215333
L.C.# 97-000204

Richard A. Bandstra, Chief Judge, acting under MCR 7.211(E)(2), orders:

Appellant's motion to file an answer to appellee Detroit Federation of Teachers' motion to strike is GRANTED.

Appellee Detroit Federation of Teachers' motion to permit filing of an answer to appellant's motion to strike is GRANTED.

Appellee Detroit Federation of Teachers' motion to strike appellant's brief, amended statement of facts, and reply brief is DENIED.

Appellant's motion to strike appellee Detroit Federation of Teachers' brief is DENIED.

(Signed) R. Bandstra

SEAL OF THE STATE OF MICHIGAN COURT OF APPEALS

A true copy entered and certified by Carl L. Gromek, Chief Clerk, on

December 22, 1999
Date

(Signed) Carl L. Gromek
Chief Clerk

Appendix E

Court of Appeals, State of Michigan

ORDER

In the Matter of the Detroit Board of Education	Richard A. Bandstra, CJ **Presiding Judge**
Docket # 215333	Harold Hood
L.C.# 97-900204	William C. Whitbeck
_____	**Judges**

Sheila Knubbe has failed to comply with the Court of Appeals directive to replace the entry fee in this case in the amount of $250.00 and has also failed to submit the assessed fee of $100.00 for returned check expenses.

The Court orders on its own motion and on the affidavit of Carl L. Gromek, Chief Clerk of the Court of Appeals, attached hereto, that Sheila Knubbe appear personally before this Court at its Courtroom, 300 Washington Square Building, 109 West Michigan, Lansing, Michigan at 11:00 a.m. on Friday, September 10, 1999, then and there to show cause, if any she has, why she should not be held in contempt of this Court in her failure to comply with the Court's directive. If Sheila Knubbe fails to appear at the above time and place, the Clerk shall issue a bench warrant for the arrest of Sheila Knubbe immediately thereafter.

The Court further orders that a certified copy of this order be served within 10 days of the Clerk's certification upon Sheila Knubbe by personal service by a Court Officer of the Michigan Court of Appeals or by the Michigan State Police.

Sheila Knubbe is hereby advised that she has the right to be represented at the hearing by counsel, a right to present and examine witnesses, and a right to offer testimony. The hearing will be mechanically recorded and a transcript will be available upon request.

(Signed) Richard Bandstra

SEAL OF THE STATE OF MICHIGAN COURT OF APPEALS

A true copy entered and certified by Carl L. Gromek, Chief Clerk, on

August 26, 1999 (Signed) Carl L. Gromek
Date Chief Clerk

Appendix F

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **In The Matter Of Detroit Board of Education**
Docket # 215333
L.C.# 97-100204

Richard A. Bandstra, Chief Judge, acting under MCR 7.211(E)(2), orders:

The motion to incorporate a complete copy of all administrative records made in the state tenure commission for being substantive documents germane to reviewing the instant appeal is DENIED.

The motion to extend time to file appellant's brief is DENIED. The Clerk of the Court shall place this case on the involuntary dismissal docket if the appellant's brief is not filed within 21 days of the Clerk's certification of this order. The Clerk's office shall docket the brief as untimely filed.

(Signed) R. Bandstra

SEAL OF THE STATE OF MICHIGAN COURT OF APPEALS

A true copy entered and certified by Carl L. Gromek, Chief Clerk, on

May 18, 1999 (Signed) Carl L. Gromek
Date Chief Clerk

APPENDIX G

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **In the Matter of Detroit Board of Education**

Docket # **215333**

L.C.# **97-100204**

Richard A. Bandstra, Chief Judge, acting under MCR 7.211(E)(2), orders:

The motion to compel the administrative agency to file the entire administrative record and to correct the agency docket is DENIED without prejudice to plaintiff-appellant's right to raise the issue in her brief on appeal.

The motion to extend time to file appellant's brief is GRANTED, and appellant's brief shall be filed within 56 days of the Clerk's certification of this order.

SEAL OF THE STATE OF MICHIGAN COURT OF APPEALS

A true copy entered and certified by Carl L. Gromek, Chief Clerk, on

February 24, 1999
Date

(Signed) Carl L. Gromek
Chief Clerk

Appendix H

IN THE MICHIGAN COURT OF APPEALS

ORDER

In the Matter of Detroit Bd of Education	Maura D. Corrigan Presiding Judge
Docket No. 214060	Martin M. Doctoroff
L.C. Nos. 97-100204 and 97-100034	William C. Whitbeck Judges

The Court, acting under MCR 7.216(A)(10), orders that:

The motion to dismiss is GRANTED, and claim of appeal is DISMISSED for lack of jurisdiction because the August 10, 1998 order is not a final order for the reason that the claims against defendants were still outstanding. See MCR 2.604 (A) and 7.202 (8)(a)(i).

SEAL OF THE STATE OF MICHIGAN COURT OF APPEALS

A true copy entered and certified by Carl L. Gromek, Chief Clerk, on

DEC 04,1998 (Signed) Carl L. Gromek
Date Chief Clerk

Appendix I

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

DETROIT BOARD OF EDUCATION,
Respondent-Public Employer in Case No. C97 I-204,

-and-

DETROIT FEDERATION OF TEACHERS,
Respondent-Labor Organization in Case No. CU97 I-34

-and-

SHEILA KNUBBE,
An Individual Charging Party.
----------/

APPEARANCES:

Gordon J. Anderson, Esq., Office of Labor Affairs, for the Public Employer

Julia A. Petrik, Esq. & Eileen Nowikowski, Esq., Sachs, Waldman, O'Hare, Helveston, Bogas & McIntosh, P.C., for the Labor Organization

Sheila Knubbe, *In Pro Per*

DECISION AND ORDER

On May 14, 1998, Administrative Law Judge Roy L. Roulhac issued his Decision and Recommended Order in the above matter finding that Respondents did not violate Section 10 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, and recommending that the Commission dismiss the charges and complaint. Charging Party filed timely exceptions to the ALJ's Decision and Recommended Order on June 8, 1998.

On August 10, 1998, we remanded this case to the Administrative Law Judge to give Charging Party an opportunity to file an amended charge setting forth the factual basis for her contention that the Detroit Board of Education retaliated against her for exercising her right to file a grievance and to clarify whether the fair representation claim against the Detroit Federation of Teachers pertained to the alleged act or acts of retaliation by the Detroit Board of Education. Charging Party was granted 20 days from the date of the remand order to file an amended charge. The remand order directed that if such a charge was not filed within that time period, the case shall be dismissed.

Charging Party did not file an amended charge by August 31, 1998. On September 9, 1998, Administrative Law Judge Roulhac issued a Decision and Recommended Order on Remand recommending that the Commission dismiss the charges and complaint.

The Decision and Recommended Order on Remand was served on the interested parties on September 9, 1998, in accord with Section 16 of the Act.

The parties have had an opportunity to review the Decision and Recommended Order on Remand for a period of at least 20 days from the date of service and no exceptions have been filed by any of the parties.

ORDER

Pursuant to Section 16 of the Act, the Commission adopts the recommended order of the Administrative Law Judge on remand as its final order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION
(Signed) Maris Stella Swift
Maris Stella Swift, Commission Chair

(Signed) Harry W. Bishop
Harry W. Bishop, Commission Member

(Signed) C. Barry Ott
C. Barry Ott, Commission Member

Date: OCT - 6 1998

Appendix J

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

DETROIT BOARD OF EDUCATION,
Respondent-Public Employer

Case No. C97 I-204
CU97 I-34

-and-

DETROIT FEDERATION OF TEACHERS,
Respondent-Labor Organization

-and-

SHEILA KNUBBE,
Charging Party, An Individual
----------/

APPEARANCES:

For the Public Employer: Office of Labor Affairs
By Gordon J. Anderson, Esq.

For the Labor Organization: Sachs, Waldman, O'Hare, Helveston, Bogas & McIntosh, P.C.
By Julie A. Petrik & Eileen Nowikowski, Esqs.

For the Charging Party: Sheila Knubbe, *In Pro Se*

DECISION AND RECOMMENDED ORDER
ON
REMAND ORDER

On September 26, 1997, Charging Party Sheila Knubbe filed unfair labor practice charges against Respondents Detroit Board of Education and the Detroit Federation of Teachers. Knubbe, a former employee of the Detroit Board of Education

and member of the Detroit Federation of Teachers claims that Respondents committed unfair labor practices in connection with her discharge from employment.

On May 14, 1998, I issued a Decision and Recommended Order in the above case recommending dismissal of the unfair labor practice charges filed against Respondents Detroit Board of Education and Detroit Federation of Teachers under Section 10 (1) of the Public Employment Relations Act (PERA), 1947 PA 336, as amended, MCL 423.210; MSA 17.455 (10).

Charging Party filed timely exception to the Decision and Recommended Order and Respondent Detroit Federation of Teachers filed a brief in support of the Decision and Recommended Order. On August 10, 1998 the Commission remanded this matter to the [sic] me to give Charging Party an opportunity to file an amended charge setting forth the factual basis for her contention that the Detroit Board of Education retaliated against her for exercising her right to file a grievance and to clarify whether the fair representation claim against the Detroit Federation of Teachers pertained to the alleged act or acts of retaliation by the Detroit Board of Education. Charging Party was granted 20 days from the date of the remand order to file an amended charge. The Commission's remand order directed that if no charge was filed within that time period, the cases shall be dismissed.

Charging Party did not filed [sic] an amended charge by August 31, 1998. It is therefore recommended that the Commission issue the order set forth below:

Recommended Order

The unfair labor practice charges are dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

(Signed) Roy L. Roulhac
Roy L. Roulhac
Administrative Law Judge

Dated SEP 09 1998

Appendix K

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

DETROIT BOARD OF EDUCATION,
Respondent-Public Employer in Case No. C97 I-204,

-and-

DETROIT FEDERATION OF TEACHERS,
Respondent-Labor Organization in Case No. CU97 I-34

-and-

SHEILA KNUBBE,
An Individual Charging Party.
---------- ----------/

APPEARANCES:

Gordon J. Anderson, Esq., Office of Labor Affairs, for the Public Employer

Julia A. Petrik, Esq. & Eileen Nowikowski, Esq., Sachs, Waldman, O'Hare, Helveston, Bogas & McIntosh, P.C., for the Labor Organization

Sheila Knubbe, *In Pro Per*

ORDER REMANDING
TO ADMINISTRATIVE LAW JUDGE

On May 14, 1998, Administrative Law Judge Roy L. Roulhac issued his Decision and Recommended Order in the above case, recommending dismissal of unfair labor practice charges filed against Respondents Detroit Board of Education and Detroit Federation of Teachers under Section 10 (1) of the Public Employment Relations Act (PERA), 1947 PA 336, as

amended, MCL 423.210; MSA 17.455 (10).

On June 8, 1998, Charging Party filed timely exceptions to the ALJ's Decision and Recommended Order. Respondent Detroit Federation of Teachers filed a brief in support of the Decision and Recommended Order on June 23, 1998.

Facts:

Sheila Knubbe was discharged from her position as a tenured teacher with the Detroit Public Schools based on charges of unsatisfactory teaching performance and failure to manage and control her students. On June 11, 1997, Knubbe filed a petition for review with the State Tenure Commission alleging, in part, that the discharge violated the Teacher Tenure Act, MCL 38.101 *et seq.*; MSA 15.2001 *et seq.*

On September 26, 1997, Knubbe filed identical unfair labor practices charges against the Detroit Board of Education and the Detroit Federation of Teachers. The charges alleged that Knubbe was competent to perform her duties and that she was discriminated against on the basis of race, gender, age, height, hair color and residency. Respondent Board of Education filed an answer on January 16, 1998, and requested that the charges be dismissed for failure to allege or establish a violation of PERA. The Union also filed a motion to stay consideration of Knubbe's unfair labor practice charges pending resolution of the tenure commission proceedings. Judge Roulhac granted the Union's motion for stay in an order entered on January 23, 1998.

On February 6, 1998 a tenure commission ALJ issued a preliminary decision and order within the 20 period set forth in MCL 38.104 (5) (j); MSA 15.204 (5) (j). Accordingly, the tenure commission issued a final order on March 27, 1998, adopting the ALJ's denial of Knubbe's appeal.

On May 14, 1998, ALJ Roulhac issued a Decision and Recommended Order dismissing the unfair labor practice charges filed against both the Employer and the Union. With regard to the Detroit Federation of Teachers, the ALJ held that the tenure commission's finding of just cause was a complete defense to Knubbe's assertion that the Union breached its duty of fair representation. The ALJ dismissed Knubbe's charge against the Employer on the ground that Knubbe had failed to state a claim upon which relief could be granted

under PERA.

Discussion and Conclusions of Law:

After reviewing the record in its entirety, we conclude that Knubbe should be afforded the opportunity to clarify her allegations against both the Employer and the Union. There is no question that the original charge did not allege any facts which would form the basis of a claim against the Employer under PERA. In her response to the Employer's answer, however, Knubbe asserted that the Employer retaliated against her "as a union member" for filing a grievance concerning an unsatisfactory rating. Similar language was included in Charging Party's exceptions to the ALJ's Decision and Recommended Order. While this allegation is somewhat vague, we find it sufficient to at least suggest the existence of a cognizable claim. Accordingly, we remand to give Knubbe the opportunity to file an amended charge setting forth the factual basis for her contention that the Detroit Board of Education retaliated against her for exercising her right to file a grievance and clarifying whether the fair representation claim pertains to the alleged act or acts of retaliation by the Employer. The ALJ shall then determine whether the amended charge states a claim upon which relief can be granted under PERA with regard to either the Employer or the Union.[1]

There is nothing in the record to support Charging Party's scurrilous attack on ALJ Roulhac's character and integrity. Therefore, her request to disqualify the ALJ is denied.

ORDER

The charges in Case No. CU97 I-34 and Case No. C97 I-204 are hereby remanded to the ALJ for further action as set forth above. If no charge is filed within that period, the case shall be dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION
(Signed) Maris Stella Swift
Maris Stella Swift, Commission Chair

(Signed) Harry W. Bishop
Harry W. Bishop, Commission Member

(Signed) C. Barry Ott
C. Barry Ott, Commission Member

Dated: AUG 10 1998

[1]Because the Union failed to provide us with a complete copy of the tenure commission's decision, it is impossible to determine whether the retaliation issue was actually litigated in the prior proceeding. It is also unclear whether Knubbe ever made the Union aware of the alleged PERA violation by the Employer. Under such circumstances, it would be premature to make any determination regarding application of the doctrine of collateral estoppel. See *Nummer v Dep't of Treasury*, 448 Mich 534 (1995).

Appendix L

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

DETROIT BOARD OF EDUCATION,
Respondent-Public Employer

Case No. C97 I-204
CU97 I-34

-and-

DETROIT FEDERATION OF TEACHERS,
Respondent-Labor Organization

-and-

SHEILA KNUBBE,
Charging Party, An Individual

_____/

APPEARANCES:

For the Public Employer: Office of Labor Affairs
By Gordon J. Anderson, Esq.

For the Labor Organization: Sachs, Waldman, O'Hare, Helveston, Bogas & McIntosh, P.C.
By Julie A. Petrik & Eileen Nowikowski, Esqs.

For the Charging Party: Sheila Knubbe, *In Pro Se*

DECISION AND RECOMMENDED ORDER
OF
ADMINISTRATIVE LAW JUDGE

On September 26, 1997, Charging Party sheila Knubbe filed unfair labor practice charges against Respondents Detroit Board of Education and the Detroit Federation of Teachers. Knubbe, a former employee of the Detroit Board of Education and member of the Detroit Federation of Teachers claims that

Respondents committed unfair labor practices in connection with her discharge from employment.

Respondent Board of Education filed an answer on January 16, 1998, and requested that the charge be dismissed because it failed to allege or establish a violation of PERA. Respondent Detroit Federation of Teachers filed a motion for summary disposition of all alleged violations of federal or state law other that Charging Party's claims under PERA. Respondent Detroit Federation of Teachers also filed a Motion to Stay Proceedings until proceedings that are pending under the Teacher Tenure Act are resolved because the two cases involve common factual and legal issues. In the Teacher Tenure Proceeding and in the unfair labor practice charge, Charging Party alleges, among other things, that her discharge violated the parties collective bargaining agreement. Respondent Detroit Federation of Teachers submits that for Charging Party to prevail on her claim that the Union violated its duty of fair representation she must prove a breach of the collective bargaining agreement. *Ypsilanti Public School,* 1994 MERC Lab Op 234.

On March 27, 1998, the Teacher Tenure Commission issued a final order adopting Administrative Law Judge Tessema Berga's denial of Charging Party's appeal and sustaining her discharge. I find that the Teacher Tenure Commission's decision that just cause existed for Charging Party's discharge is a complete defense to her charge that the Respondent Detroit Federation of Teachers violated its duty of fair representation. Moreover, nowhere in Charging Party's five page charge does she state a claim against Respondent Detroit Board of Education for which relief can be granted under PERA. It is therefore recommended that the Michigan Employment Relations Commission issue the order set forth below:

Recommended Order

The unfair labor practice charge is dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

(Signed) Roy L. Roulhac
Roy L. Roulhac
Administrative Law Judge

Dated MAY 14 1998

Appendix M

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

DETROIT BOARD OF EDUCATION,
Respondent-Public Employer

Case No. C97 I-204
CU97 I-34

-and-

DETROIT FEDERATION OF TEACHERS,
Respondent-Labor Organization

-and-

SHEILA KNUBBE,
Charging Party, An Individual

_____/

APPEARANCES:

For the Public Employer: Office of Labor Affairs
By Gordon J. Anderson, Esq.

For the Labor Organization: Sachs, Waldman, O'Hare, Helveston, Bogas & McIntosh, P.C.
By Julie A. Petrik, Esq.

For the Charging Party: Sheila Knubbe,

ORDER STAYING PROCEEDING

On September 26, 1997, Charging Party Sheila Knubbe filed unfair labor practice charges against Respondents Detroit Board of Education and the Detroit Federation of Teachers. Knubbe, a former employee of the Detroit Board of Education and member of the Detroit Federation of Teachers claims that Respondents committed unfair labor practices in connection with her discharge from employment.

Respondent Board of Education filed an answer on January 16, 1998, and requested that the charge be dismissed because it failed to allege or establish a violation of PERA. Respondent Detroit Federation of Teachers filed a Motion for Summary Disposition of all alleged violations of federal or state law other than Charging Party's claims under PERA. Respondent Detroit Federation of Teachers also filed a Motion to Stay Proceedings until proceedings that are pending under the Teacher Tenure Act are resolved because the two cases involve common factual and legal issues. In the Teacher Tenure Prodeeding and in the unfair labor practice charge, Charging Party alleges, among other things, that her discharge violated the parties collective bargaining agreement. Respondent Detroit Federation of Teachers submits that for Charging Party to prevail on her claim that the Union violated its duty of fair representation she must prove a breach of the collective bargaining agreement. *Ypsilanti Public School,* 1994 Lab Op 234. According to Respondent Detroit Federation of Teachers, a decision on the merits of Charging Party's Tenure case is likely to be issued shortly.

I find that since a Teacher Tenure Commission decision that just cause existed for Charging Party's discharge is a complete defense to her charge that the Detroit Federation of Teachers, violated its duty of fair representation, the cases scheduled for Thursday January 29, 1998, are adjourned without date. The parties are directed to provide the undersigned with a copy of the Teacher Tenure Commission when it is issued. If the Commission determines that just cause did not exist for Charging Party's discharge, a hearing on the merits of her unfair labor practice charges will be scheduled.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

(Signed) Roy L. Roulhac
Roy L. Roulhac
Administrative Law Judge

Dated JAN 23,1998

Appendix N

COMPLAINT AND NOTICE OF HEARING
MICHIGAN DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
Employment Relations Commission
Labor Relations Division

Authority: P.A. 380 OF 1965
As amended
COMPLETION:
PENALTY:

DETROIT BOARD OF EDUCATION,
Respondent in Case Nol C97 I-204
DETROIT FEDERATION OF TEACHERS, Case Nos. C97 I-204
Respondent in Case Nol CU97 I-34 CU97 I-34

-and-
SHEILA KNUBBE
Individual Charging Party

PLEASE TAKE NOTICE that:

1. Complaint is hereby issued against you alleging violation of Section 10 of Act 336, PA 1947, as amended, Public Employment Relations Act (PERA), MCLA 423.210, MSA 17.455(10).
2. A copy of the charges on which said complaint is based is attached hereto.
3. A public hearing will be held on the complaint:

   Date: Thursday, January 29, 1998
   Time: 10:00 a.m.
   Place: Bureau of Employment Relations, State of MI Plaza Bldg., 14th Fl., 1200 Sixth St., Detroit, MI 48226.

At the time and place specified above, the parties have the right to appear in person or by representative and give testimony and evidence.

You are further notified that the employer, person or organization complained of herein shall answer such charge and complaint by filing an Answer thereto with the Michigan

Employment Relations Commission. An original and three (3) copies of such answer shall be served on the Commission within ten (10) days, and on the same date a copy thereof shall be served on the opposite party.

Dated at Detroit, Michigan, this 10th day of October, 1997.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

(Signed) Roy L. Roulhac
Roy L. Roulhac
Administrative Law Judge
313/256-3519

COPY TO:
Detroit Bd. of Ed.
DFT
Sheila Knubbe, an indiv.
File

/lap

The Department of Consumer & Industry Services Labor will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, handicap or political beliefs.

Appendix O

AMENDMENT I TO THE UNITED STATES CONSTITUTION

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Appendix P

AMENDMENT IX TO THE UNITED STATES CONSTITUTION

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Appendix Q

AMENDMENT XIV TO THE UNITED STATES CONSTITUTION

Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Appendix R

Teachers' Tenure Act [Act 4 of the Public Acts (Extra Session), 1937]

MCL 38.93; MSA 15.1993, § 3 (1) and (2) PERFORMANCE EVALUATIONS OF TENURED TEACHERS.

Sec. 3.(1) The controlling board of the school district employing a teacher on continuing tenure **shall** ensure that the teacher is provided with a performance evaluation at least once every 3 years and, **if the teacher has received a less than satisfactory performance evaluation, the school district shall provide the teacher with an individualized development plan developed by appropriate administrative personnel in consultation with the individual teacher. The performance evaluation shall be based on**, but not limited to, **at least 2 classroom observations** conducted during the period covered by the evaluation and . . . **shall include at least an assessment of the teacher's progress in meeting the goals of his or her individualized plan.** . . . (Emphasis supplied.)

Sec. 3.(2) Failure of a school district to comply with subsection (1) with respect to an individual teacher in a particular 3-year period is conclusive evidence that the teacher's performance for that period was satisfactory.

Appendix S

Through his preliminary decision and order, the Administrative Law Judge Tessema Berga ("ALJ Berga") wrongfully and fraudulently denied the petitioner's appeal as a tenured mathematics teachers for about thirty-five years, while accepting all the suborned and perjured testimony of the respondent Detroit Board of Education ("the Board") and while permitting into record such fraudulently doctored documents as the Individualized Development Plan ("IDP"), whose development is mandatory under the Michigan Teachers' Tenure Act under the terms of the petitioner's contract, and while adding further fraudulent charges against the petitioner's teaching performance, and while denying her an opportunity to present her case, or affording her an opportunity to present evidence, or to call her own witnesses, or to examine her employer's witnesses, who repeatedly had committed perjury against her, or to put her own testimony on the record, or in any way to prosecute her claims; in addition, petitioner was denied her right to file her exceptions to the said preliminary decision and order, which constitutes one of the most fraudulent documents that has been memorialized in writing which is replete with various misrepresentations of the issues of fact and law (and thereby deceiving surplusage) and evidence and repeated omission of the key issues of fact and law; moreover, the preliminary decision and order of ALJ Berga was not authorized by law, and the jurisdictional and statutory authority of the said hearing officer and the State Tenure Commission ("STC") had been ousted on many grounds: (1) denying petitioner an opportunity to file her exceptions, (2) as a matter of law petitioner was entitled to default judgment, (3) ALJ Berga had been in repeated unilateral communication with the Board, (4) the wife of ALJ Berga had been given a political plum of a job as a teaching consultant by the Board, which was kept in confidence until petitioner filed a motion for his recusal for having a pecuniary interest in the outcome of this case, (5) ALJ Berga had been deeply hostile and prejudiced against petitioner, while he was highly prejudiced for the Board, and thus had been the subject of the petitioner's severe criticism, as he had been deeply hostile towards petitioner and her spouse and had denied her established rights at every opportunity, (6) ALJ Berga failed to conclude the hearing within 90 days as mandated by the governing statute, (7) ALJ Berga intentionally went on with the

hearing to wantonly deny petitioner an opportunity to attend the hearings in which doctored documents had been entered against her and in which suborned and perjured testimony had been made against her by the witnesses of the boss of ALJ Berga's spouse, to wit, the Board, and while he knew full well that petitioner had been rushed to the hospital when witnessing as to how ALJ Berga and the Board were denying her right to have her day in court, and while knowing that she had to be hospitalized for four days, as she had been warned by her physician that she could have had a stroke or heart attack and that she would risk the same again in the future should she subject herself to similar undue psychological pressure and mental anxiety, (8) the Board's failure to develop an IDP is conclusive evidence that the petitioner's teaching performance has been satisfactory, and (9) petitioner was denied an opportunity to prosecute her case, and the whole proceedings were a mockery of law, defective and not authorized by law, among other grounds. Every one of the above-stated grounds renders the order and decision entered at the STC null and void.

It is of notice that on September 4, 1997, petitioner because of her witnessing the outrageous conduct on the part of ALJ Berga and the Board's attorney and agents as to how they were going to enter a fraudulent IDP against her (which from nowhere had appeared for the first time in the course of the hearing at the STC), and because of her witnessing as to how her right was blatantly and maliciously being violated, causing her experiencing an intolerable degree of anxiety and mental anguish and considerable pain in her chest and left arm with elevated blood pressure, and thereby her illness became worsened so much so that she could not stand the sham hearing and the fraudulent proceeding, and thereby had to be rushed to the hospital, where she was advised that she could have suffered a heart attack or stroke and had to be hospitalized for four days to be closely monitored for her condition and where she was subsequently warned by her physician that she might suffer from heart attack or stroke in the future should she allow herself to be subjected to similar mental anguish and psychological anxiety and undue pressure.